JUDGE SCHEINDLIN

JS 44C/SDNY
REV. 12/2005

CIVIL COVER SHEET

06 CV 14367

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS
Jason Dowling

DEFENDANTS
The City of NY, Police Officer Baez, Police officer John Doe

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER
Ronemus & Vilensky, 112 Madison Ave 2nd Fl. NY, NY 10016

ATTORNEYS (IF KNOWN)

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
42 U.S.C. §1983, 28 U.S.C. §1331, and §1342(3)

RECEIVED DEC 12 2006 U.S.D.C. S.D. N.Y.

Has this or a similar case been previously filed in SDNY at any time? No [x] Yes? ☐ Judge Previously Assigned

If yes, was this case Vol☐ Invol. ☐ Dismissed. No☐ Yes ☐ If yes, give date ____________ & Case No. ____________

(PLACE AN [x] IN ONE BOX ONLY) **NATURE OF SUIT**

ACTIONS UNDER STATUTES

CONTRACT
- [ ] 110 INSURANCE
- [ ] 120 MARINE
- [ ] 130 MILLER ACT
- [ ] 140 NEGOTIABLE INSTRUMENT
- [ ] 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- [ ] 151 MEDICARE ACT
- [ ] 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)
- [ ] 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS
- [ ] 160 STOCKHOLDERS SUITS
- [ ] 190 OTHER CONTRACT
- [ ] 195 CONTRACT PRODUCT LIABILITY
- [ ] 196 FRANCHISE

TORTS

PERSONAL INJURY
- [ ] 310 AIRPLANE
- [ ] 315 AIRPLANE PRODUCT LIABILITY
- [ ] 320 ASSAULT, LIBEL & SLANDER
- [ ] 330 FEDERAL EMPLOYERS' LIABILITY
- [ ] 340 MARINE
- [ ] 345 MARINE PRODUCT LIABILITY
- [ ] 350 MOTOR VEHICLE
- [ ] 355 MOTOR VEHICLE PRODUCT LIABILITY
- [ ] 360 OTHER PERSONAL INJURY

PERSONAL INJURY
- [ ] 362 PERSONAL INJURY - MED MALPRACTICE
- [ ] 365 PERSONAL INJURY PRODUCT LIABILITY
- [ ] 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

PERSONAL PROPERTY
- [ ] 370 OTHER FRAUD
- [ ] 371 TRUTH IN LENDING
- [ ] 380 OTHER PERSONAL PROPERTY DAMAGE
- [ ] 385 PROPERTY DAMAGE PRODUCT LIABILITY

FORFEITURE/PENALTY
- [ ] 610 AGRICULTURE
- [ ] 620 FOOD & DRUG
- [ ] 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- [ ] 630 LIQUOR LAWS
- [ ] 640 RR & TRUCK
- [ ] 650 AIRLINE REGS
- [ ] 660 OCCUPATIONAL SAFETY/HEALTH
- [ ] 690 OTHER

LABOR
- [ ] 710 FAIR LABOR STANDARDS ACT
- [ ] 720 LABOR/MGMT RELATIONS
- [ ] 730 LABOR/MGMT REPORTING & DISCLOSURE ACT
- [ ] 740 RAILWAY LABOR ACT
- [ ] 790 OTHER LABOR LITIGATION
- [ ] 791 EMPL RET INC SECURITY ACT

BANKRUPTCY
- [ ] 422 APPEAL 28 USC 158
- [ ] 423 WITHDRAWAL 28 USC 157

PROPERTY RIGHTS
- [ ] 820 COPYRIGHTS
- [ ] 830 PATENT
- [ ] 840 TRADEMARK

SOCIAL SECURITY
- [ ] 861 MIA (1395FF)
- [ ] 862 BLACK LUNG (923)
- [ ] 863 DIWC (405(g))
- [ ] 863 DIWW (405(g))
- [ ] 864 SSID TITLE XVI
- [ ] 865 RSI (405(g))

FEDERAL TAX SUITS
- [ ] 870 TAXES
- [ ] 871 IRS-THIRD PARTY 20 USC 7609

OTHER STATUTES
- [ ] 400 STATE REAPPORTIONMENT
- [ ] 410 ANTITRUST
- [ ] 430 BANKS & BANKING
- [ ] 450 COMMERCE/ICC RATES/ETC
- [ ] 460 DEPORTATION
- [ ] 470 RACKETEER INFLU-ENCED & CORRUPT ORGANIZATION ACT (RICO)
- [ ] 480 CONSUMER CREDIT
- [ ] 490 CABLE/SATELLITE TV
- [ ] 810 SELECTIVE SERVICE
- [ ] 850 SECURITIES/ COMMODITIES/ EXCHANGE
- [ ] 875 CUSTOMER CHALLENGE 12 USC 3410
- [ ] 891 AGRICULTURE ACTS
- [ ] 892 ECONOMIC STABILIZATION ACT
- [ ] 893 ENVIRONMENTAL MATTERS
- [ ] 894 ENERGY ALLOCATION ACT
- [ ] 895 FREEDOM OF INFORMATION ACT
- [ ] 900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE
- [ ] 950 CONSTITUTIONALITY OF STATE STATUTES
- [ ] 890 OTHER STATUTORY ACTIONS

ACTIONS UNDER STATUTES

REAL PROPERTY
- [ ] 210 LAND CONDEMNATION
- [ ] 220 FORECLOSURE
- [ ] 230 RENT LEASE & EJECTMENT
- [ ] 240 TORTS TO LAND
- [ ] 245 TORT PRODUCT LIABILITY
- [ ] 290 ALL OTHER REAL PROPERTY

CIVIL RIGHTS
- [ ] 441 VOTING
- [ ] 442 EMPLOYMENT
- [ ] 443 HOUSING ACCOMMODATIONS
- [ ] 444 WELFARE
- [ ] 445 AMERICANS WITH DISABILITIES - EMPLOYMENT
- [ ] 446 AMERICANS WITH DISABILITIES -OTHER
- [x] 440 OTHER CIVIL RIGHTS

PRISONER PETITIONS
- [ ] 510 MOTIONS TO VACATE SENTENCE 28 USC 2255
- [ ] 530 HABEAS CORPUS
- [ ] 535 DEATH PENALTY
- [ ] 540 MANDAMUS & OTHER
- [ ] 550 CIVIL RIGHTS
- [ ] 555 PRISON CONDITION

Check if demanded in complaint:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND $__________ OTHER __________ JUDGE ____________________ DOCKET NUMBER__________

Check YES only if demanded in complaint
JURY DEMAND: ☐ YES ☐ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(SEE REVERSE)

(PLACE AN x IN ONE BOX ONLY) **ORIGIN**

[X] 1 Original Proceeding	[ ] 2a. Removed from State Court [ ] 2b. Removed from State Court AND at least one party is a pro se litigant	[ ] 3 Remanded from Appellate Court	[ ] 4 Reinstated or Reopened	[ ] 5 Transferred from (Specify District)	[ ] 6 Multidistrict Litigation	[ ] 7 Appeal to District Judge from Magistrate Judge Judgment

(PLACE AN x IN ONE BOX ONLY) **BASIS OF JURISDICTION** ***IF DIVERSITY, INDICATE CITIZENSHIP BELOW. (28 USC 1332, 1441)***

[ ] 1 U.S. PLAINTIFF [ ] 2 U.S. DEFENDANT [X] 3 FEDERAL QUESTION (U.S. NOT A PARTY) [ ] 4 DIVERSITY

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

	PTF	DEF		PTF	DEF		PTF	DEF
CITIZEN OF THIS STATE	[ ] 1	[ ] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	[ ] 3	[ ] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	[ ] 5	[ ] 5
CITIZEN OF ANOTHER STATE	[ ] 2	[ ] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[ ] 4	[ ] 4	FOREIGN NATION	[ ] 6	[ ] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Jason Dowling
20 West 115th St. Apt #13A
NY, NY 10026.

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

The City of New York
100 Church St.
NY, NY 10007

Police Officer Baez & Police officer John Doe
c/o 33rd Precinct
NYC Police Dept.
2207 Amsterdam Ave, NY, NY 10032

DEFENDANT(S) ADDRESS UNKNOWN
REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: [ ] WHITE PLAINS [X] FOLEY SQUARE
(DO NOT check either box if this a PRISONER PETITION.)

DATE 12/11/06 SIGNATURE OF ATTORNEY OF RECORD [signature]

RECEIPT #

ADMITTED TO PRACTICE IN THIS DISTRICT
[ ] NO
[X] YES (DATE ADMITTED Mo. 4 Yr. 87)
Attorney Bar Code # MR 4999

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge ______________________ is so Designated.

J Michael McMahon, Clerk of Court by __________ Deputy Clerk, DATED __________.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

United States District Court

SOUTHERN DISTRICT OF NEW YORK

JASON DOWLING,

SUMMONS IN A CIVIL CASE

V.

CASE NUMBER:

THE CITY OF NEW YORK and POLICE OFFICER BAEZ AND POLICE OFFICER JOHN DOE

06 CV 14367

JUDGE SCHEINDLIN

TO: (Name and address of defendant)

THE CITY OF NEW YORK
100 Church Street
New York, NY 10007

POLICE OFFICER BAEZ AND POLICE OFFICER JOHN DOE
c/o 33rd Precinct NYC Police Department
2207 Amsterdam Ave.
New York, NY 10032

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

RONEMUS & VILENSKY
112 MADISON AVENUE, 2ND FLOOR
NEW YORK, NEW YORK 10016

an answer to the complaint which is herewith served upon you, within twenty days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

CLERK

DEC 1 2 2006

DATE

(BY) DEPUTY CLERK

RETURN OF SERVICE

Service of the Summons and Complaint was made by me[1]	DATE
NAME OF SERVER *(PRINT)*	TITLE

Check one box below to indicate appropriate method of service

☐ Served personally upon the defendant. Place where served: ______________________

☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left: ______________________

☐ Returned unexecuted: ______________________

☐ Other *(specify)*: ______________________

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on ______________________ ______________________
Date Signature of Server

____
Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

JUDGE SCHEINDLIN 06 CV 14367

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF THE STATE OF NEW YORK
-- X
JASON DOWLING,

Plaintiff,

-against-

THE CITY OF NEW YORK and POLICE OFFICER BAEZ AND POLICE OFFICER JOHN DOE,

Defendants.
--X

Index No.:

COMPLAINT AND JURY DEMAND

DEC 12 2006

INTRODUCTORY STATEMENT

1. The plaintiff, JASON DOWLING, brings this action under 42 U.S.C. Sec. 1983 and related state laws seeking compensatory and punitive damages and attorneys fees under 42 U.S.C. Sec. 1988 for the defendants' violation of their rights afforded by the United States and New York Constitutions and under the laws of the State of New York.

2. Defendants, THE CITY OF NEW YORK, POLICE OFFICER BAEZ AND POLICE OFFICER JOHN DOE, being employees of the New York City Police Department, respectively, violated plaintiff's civil rights without just and probable cause, causing him emotional and economic loss.

JURISDICTION

3. The Court has jurisdiction over plaintiff's claims under 42 U.S.C. Sec. 1983 pursuant to 28 U.S.C. Sec. 1331 and Sec. 1342(3).

4. The Court has supplemental jurisdiction over plaintiff's state law claims pursuant to 28 U.S.C. Sec. 1367.

5. Prior to commencement of this action and within 90 days of occurrence herein, on April 18, 2006, plaintiff served a Notice of Claim in writing, upon the defendant, the City of New York, in accordance with Section 50(e) of the General Municipal Law.

6. A hearing was held pursuant to Section 50(h) of the General Municipal Law on September 12, 2006, and this case has not been settled or adjusted.

7. This action was commenced within one year and ninety days of the occurrence complained of herein that gave rise to plaintiff's injuries and plaintiff has complied with all of the prerequisites for bringing this action.

PARTIES

8. Plaintiff JASON DOWLING is a resident of the County of New York, City and State of New York.

9. Defendant CITY OF NEW YORK is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York, and as such is responsible for the practices, policies and customs of the New York City Police Department, as well as the hiring, screening, training, supervising, controlling and disciplining of those persons employed by the New York City Police Department.

10. Defendants POLICE OFFICER BAEZ and POLICE OFFICER JOHN DOE, are being sued herein both in their individual and official capacities, are and were at all times hereinafter mentioned, and particularly on or about December 13, 2005, employed by the City of New York.

11. Defendants were at all times acting under color of state law, to wit, under color of the statutes, ordinances, customs, policies and/or practices of the State of New

York and/or the City of New York and defendants were also acting within the scope of and in furtherance of their employment.

FACTUAL ALLEGATIONS

12. Plaintiff JASON DOWLING was not guilty of any criminal acts.

13. On or about December 13, 2005, plaintiff JASON DOWLING reported to work at Penn Station, and was told there had been a problem with his fingerprints taken in connection with his employment application for FedCap.

14. On or about December 13, 2005, plaintiff JASON DOWLING reported to 26 Federal Plaza in order rectify the problem with his employment application.

15. Upon arrival at 26 Federal Plaza, two federal agents confronted plaintiff JASON DOWLING and asked him to confirm his name.

16. Plaintiff JASON DOWLING was then handcuffed and told there was a warrant for his arrest in Pennsylvania.

17. Plaintiff JASON DOWLING was fingerprinted and the prints were then sent to Pennsylvania.

18. Thereafter, the federal agents told plaintiff JASON DOWLING that he was not the person they were looking for; however, in light of a false statement on his application for employment he would be turned over to the New York City Police.

19. About and hour later POLICE OFFICER BAEZ AND POLICE OFFICER JOHN DOE arrived and told plaintiff, JASON DOWLING he would be going home shortly.

20. Plaintiff, JASON DOWLING was thereafter taken to the 33rd Precinct.

21. Upon arrival at the precinct, plaintiff JASON DOWLING was photographed, which was then e-mailed to Pennsylvania in connection with the charges that the federal agents questioned him about earlier.

22. Thereafter, Pennsylvania authorities notified the New York police that he was not the person they were looking for.

23. Plaintiff JASON DOWLING was met by his Legal Aid attorney who apprised him of the charges, consisting of a false statement in his employment application.

24. Plaintiff, JASON DOWLING was thereafter arraigned.

25. Plaintiff JASON DOWLING was sent to Riker's Island where he remained until on or about March 15, 2006.

26. On or about December 26, 2005, plaintiff JASON DOWLING'S bail was posted in the amount of $500.00.

27. Despite posting bail, JASON DOWLING was not released from prison and was held in violation of his civil rights.

28. On or about September 6, 2006, the criminal case against plaintiff JASON DOWLING was dismissed.

29. Plaintiff JASON DOWLING has suffered significant emotional and physical trauma as direct a result of the aforementioned occurrence.

30. Solely as the result of the foregoing, plaintiff JASON DOWLING has sustained substantial financial loss and serious physical and emotional injuries.

AS AND FOR A FIRST CAUSE OF ACTION –
VIOLATION OF CIVIL RIGHTS

31. Plaintiff repeats and reiterates all of the allegations contained in paragraphs 1 through 30 as if fully set forth herein.

32. As a direct and proximate result of the defendants' actions, plaintiff JASON DOWLING was deprived of rights, privileges and immunities secured to him under the Constitution and laws of New York and the United States, including, but not limited to his rights under the Fourth, Eighth and Fourteenth Amendments and 42 U.S.C. 1983 to be secure in his person, to be free from unreasonable searches and seizures, to be free from malicious prosecution, false arrest and false imprisonment and punishment without due process and to equal protection of the laws.

33. As a result of the aforesaid violation of plaintiff JASON DOWLING'S rights, sustained injuries and damages previously described in this complaint.

34. As a result of the foregoing, plaintiff seeks compensatory damages in an amount that exceeds the minimal jurisdictional amount of this Court from all defendants.

AS AND FOR A SECOND CAUSE OF ACTION – NEGLIGENCE

35. Plaintiff repeats and reiterates all of the allegations contained in paragraphs 1 through 34 as if fully set forth herein.

36. The defendants, their agents, servants or employees acted negligently, carelessly and recklessly in arresting and prosecuting the plaintiff JASON DOWLING.

37. As a result of the aforesaid, plaintiff sustained the injuries and damages previously described in this complaint.

38. As a result of the foregoing, plaintiff seeks compensatory damages in an amount that exceeds the minimal jurisdictional amount of this Court from all defendants.

AS AND FOR A THIRD CAUSE OF ACTION – NEGLIGENT RETENTION AND NEGLIGENT HIRING

39. Plaintiff repeats and reiterates all of the allegations contained in paragraphs 1 through 38 as if fully set forth herein.

40. The defendants, their agents, servants or employees acted negligently, carelessly and recklessly in hiring and/or retaining the individually named defendants in that said individual defendants were or should have been known to be employees who abused and misused their position, who gave false information, or who acted intentionally and/or recklessly toward the public.

41. As a result of the aforesaid, plaintiff JASON DOWLING sustained the injuries and damages previously described in this complaint.

42. As a result of the foregoing, plaintiff seeks compensatory damages in an amount that exceeds the minimal jurisdictional amount of this Court from all defendants.

AS AND FOR A FOURTH CAUSE OF ACTION – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

43. Plaintiff repeats and reiterates all of the allegations contained in paragraphs 1 through 42 as if fully set forth herein.

44. The actions of the defendants in arresting and holding the plaintiff JASON DOWLING who they knew or should have known was not guilty of a crime or should not have been held in jail after he paid bail, were outrageous and beyond any norms acceptable to society.

45. As a result of the aforesaid, plaintiff JASON DOWLING sustained injuries and damages previously described in this complaint.

46. As a result of the foregoing, plaintiff seeks compensatory damages in an amount that exceeds the minimal jurisdictional amount of this Court from all defendants.

AS AND FOR A FIFTH CAUSE OF ACTION – FALSE ARREST AND FALSE IMPRISONMENT

47. Plaintiff repeats and reiterates all of the allegations contained in paragraphs 1 through 46 as if fully set forth herein.

48. At no time did plaintiff JASON DOWLING commit any act or offense for which an arrest may be lawfully made or for which he should have been held in jail after he posted bail on or about December 26, 2005 .

49. The false criminal charges, false arrest and wrongful imprisonment were without any legitimate cause or justification, were intentional, malicious, reckless and in bad faith.

50. As a result of the aforesaid, plaintiff JASON DOWLING sustained injuries and damages previously described in this complaint.

51. As a result of the foregoing, plaintiff seeks compensatory damages in an amount that exceeds the minimal jurisdictional amount of this Court from all defendants.

AS AND FOR A SIXTH CAUSE OF ACTION – MALICIOUS PROSECUTION

52. Plaintiff repeats and reiterates all of the allegations contained in paragraphs 1 through 51 as if fully set forth herein.

53. In commencing and continuing the said malicious prosecution, defendants caused plaintiff JASON DOWLING to be falsely charged with acts in violation of the Penal Law of the State of New York or held in jail after he posted bail.

54. At no time did plaintiff JASON DOWLING commit, or attempt to commit, any act or offense for which an arrest may be lawfully made or for which he should have been held in jail after he posted bail on December 26, 2005.

55. The plaintiff JASON DOWLING had not given defendants probable cause to believe that he had committed the falsely charged acts for which he remained in jail after December 26, 2005..

56. The defendants knew, or should have known through the exercise of reasonable care and proper police procedure, that the said investigation into this matter was flawed and incomplete.

57. The defendants willfully, negligently and wrongfully accused the plaintiff JASON DOWLING of having committed acts in violation of the Penal Law of the State of New York and/or the State of Pennsylvania.

58. The defendants willfully, negligently and wrongfully continued to prosecute plaintiff for alleged violations even though defendants knew or should have known of facts and circumstances that would have led a reasonable person to conclude that the criminal complaint, upon which said criminal prosecution was based, contained material falsehoods and was otherwise improper, and that the continued prosecution of the plaintiff JASON DOWLING was therefore improper, under the circumstances.

59. As a result of the aforesaid malicious prosecution, plaintiff JASON DOWLING sustained injuries and damages previously described in this complaint.

60. As a result of the foregoing, plaintiff seeks compensatory damages in an amount that exceeds the minimal jurisdictional amount of this Court from all defendants.

WHEREFORE, plaintiff demands an amount that exceeds the minimal jurisdictional amount of this Court in each of the first through five causes of action along with punitive damages and attorney's fees, together with the costs and disbursements of this action.

Dated: New York, New York
December 10, 2006

Michael Ronemus (4999)
RONEMUS & VILENSKY
Attorneys for Plaintiff(s)
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New York, New York 10016
(212) 779-7070